

REMARKS

Claims 1-9, all the claims pending in the application, stand rejected. Claims 1 and 7-9 are amended.

Claim Rejections - 35 U.S.C. § 102

Claims 1 and 5-10 are rejected under 35 U.S.C. § 102(b) as being anticipated by Osamu et al (EP 1145748 A2). This rejection is traversed for at least the following reasons.

Claim 1

The Examiner repeats the basis for the rejection of these claims that was presented in the Office Action dated April 8, 2008. The text is virtually identical, except for the statement at page 5, regarding the “replication means.” Specifically, the Examiner comments that “the original items data and replication game data are stored without change [0004 -0006, wherein Osamu discloses allowing the storage medium to store all of the game data without initially modifying it].” The Examiner states in the Response to Arguments at page 11 that Applicants’ arguments filed August 8, 2008 have been fully considered but are not persuasive. Specifically, the Examiner notes that the rejection “has been updated to reflect the claim amendment.”

Applicants have reviewed the Examiner’s rejection and it appears that the only updating is the additional brief comment concerning the replication means.

The Examiner’s position is traversed on several bases.

No Change of Original Data

First, the claim limitation, which was added in the previous amendment, states that “the replication means stores the game data into the replication *target* game data storage means, without changing the original item data and the replica item data stored in the replication *source* game data storage means, on the basis of the game data stored in the replication *source* game data storage means...”

The effect of this limitation may be understood with regard to the illustration of the game data storage in Fig. 4. There, a replication *source* game data storage means (42-1) is within a first game data storage part 40-1, which is one of several such parts (40-1, 40-2, 40-3) in storage part 41 of the game apparatus 10, as illustrated in Fig. 3. The first game data storage part 40-1

also includes a replication *target* 44-1. A second game data storage part 40-2 similarly contains a replication source 42-2 and a replication target 44-2. The other game data storage parts 40-3, 40-4, etc. would be similarly arranged.

As recited in claim 1, the replication means stores game data into a replication *target* game data storage means (44-1, 44-2, 44-3, etc.) on the basis of game data stored in the replication *source* game data storage means (42-1, 42-2, 42-3, etc.).

As also stated in claim 1 and, as illustrated in Fig. 4, “each of the plural game storage means stores original item data relating to an original item and a replica item data relating to a replica item.” This function is explained at page 11, line 26 - page 12, line 23. The use of a *source* storage area and *target* storage area in each game data storage part (40-1, 40-2, 40-3, etc) is to permit storage of (1) original source data and (2) a copy of the original data, the copy being produced by a replication process in order to ensure that a game may resume play by using one of the original or saved data. In other words, the data stored is the same and is not changed when the original item data is stored as replica item data. In short, one is the backup for the other, in the event that an assignment or exchange is performed on the basis of one of the copy and the original, again is resumed in a play situation, by using the other saved data where the item is not spent.

The invention solves a problem within this environment, where the original item data and the replica item data are not changed, by using link data that correlates to game data storage means with each other. In particular, as illustrated in Fig. 4, the number of a *source*, illustrated in the left-hand column, is stored and the number of originals and number of replicas, illustrated in the right-hand column, also is stored for each game data storage part (40-1, 40-2, 40-3, etc.) in storage part 41.

The claimed “replication means” stores both game data and link data. The game data is stored (1) without changing the original item data and the replica item data stored in the replication *source* game data storage means (e.g., 42-1) and (2) stores so that a sum of the number of original items relating to the original item data stored in the replication *source* game data storage means (e.g., 42-1) and the number of replica items relating to the replica item data stored in the replication *source* game data storage means (42-1) becomes the number of replica

items relating to the replica item data stored in the replication *target* game data storage means (44-2). The stored link data correlates the *target* game data storage means (44-2) with the replication *source* game data storage means (42-1) in a link data storage means.

Osamu

The Osamu process relates to video game having a “bottle mail function” in which a game player (or character) can exchange his own game item for other unpredictable game items during game play (paragraph [0024]). Where a player wishes to change a game item, an unnecessary own game item is put in a bottle and released, permitting an unpredictable game item to be returned, as explained at paragraph [0025]. This exchange may take place in an item exchange area 44, as illustrated in Fig. 2, and may occur on the basis of a connection between two different game devices 10a, 10b.

As explained at col. 6, lines 36-41, in a first game device, the game item specified by information obtained from the second game device is used as an exchange source game item and an exchange object game item correlated with the exchange source game item is read from an item exchange table. In other words, when a game item is identified in device 10a and released to sea in a bottle, an unpredictable game item specified on the basis of the game item designated in device 10b arrives instead. An item exchange table (Fig. 3), which is stored beforehand correlates an exchange source game item to an exchange object game item and provides a corresponding exchange object game item upon designation of an exchange source game item, as explained at paragraph [0026].

Clearly, the object game item is intentionally made different from the source game item and the item used by a player is changed. This is the entire purpose of the Osamu bottle mail function feature.

Clearly, this exchange results in the replacement of data and is distinguishable from the feature in the claimed invention where original item data is not changed.

The Examiner refers to paragraphs [0004] - [0006] as disclosing “allowing the storage medium to store all of the game data without initially modifying it.” First, this broad statement does not address the limitations in the claim that require replication means to store the game data

into the replication *target* game data storage means without changing the original item data and the replica item data stored in the replication *source* game data storage means. In other words, the data is simply duplicated. There is no teaching of such *duplication function* in the cited paragraphs of Osmu et al. Moreover, even an initial storage of game data without modifying it does not meet the claim requirement that a replication would occur; that is, original data is duplicated. Finally, the Examiner has not pointed to the specific text in the paragraphs of Osamu where the alleged teaching takes place, and Applicants would assert that there is no such teaching. By the Examiner's own inference, immediately after storage in Osamu, there is modification of data. In fact, the selected object game item data is changed into data representing an unpredictable game item.

In order to further specify the feature of the invention and provide an additional basis for distinguishing Osamu, Applicants have further stated that the replication means stores the game data into the replication target game data storage means "thereby permitting access to and use of both original item data and the replica item data in subsequent game play."

Finally, Applicants again note that they have clearly demonstrated that there is no storage of link data by the replication means. Further, Applicants have demonstrated that the corresponding structure for the replication means, which requires a "sum" of two numbers, would not be provided by the counter identified by the Examiner.

Claims 5 and 6

These claims would be patentable due to their dependency from claim 1, and for the reasons given with respect to claim 1.

Claims 7-9

These claims have been amended to incorporate the new limitation added to claim 1 and for the reasons given for claim 1.

Claim 10

This claim was previously cancelled and its rejection is moot.

Claim Rejections - 35 U.S.C. § 103

Claims 2-4 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Osamu et al in view of Holenstein et al (7,103,586). This rejection is traversed for at least the following reasons.

Again, the Examiner repeats the basis for rejection as presented in the previous amendment. These claims would be patentable for the reasons given with regard to parent claim 1.

Holenstein et al was distinguished in the previous amendment and, in any event, does not remedy the deficiencies of Osamu et al. There is no teaching or suggestion that the original item data and replicated item data are stored, without modification, for subsequent use in game play.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

/Alan J. Kasper/

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: February 4, 2009

Alan J. Kasper
Registration No. 25,426